

## **REMARKS**

This is a full and timely response to the outstanding final Office Action mailed May 19, 2006. Reconsideration and allowance of the application and pending claims are respectfully requested.

### **Claim Rejections - 35 U.S.C. § 103(a)**

Claims 1, 3-7, 9, 10, 12, 15-19, and 24-28 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Johnson, et al.* (“Johnson,” U.S. Pub. No. 2004/0212651) in view of *Koether* (U.S. Pat. No. 5,875,430). Applicant traverses this rejection as improper.

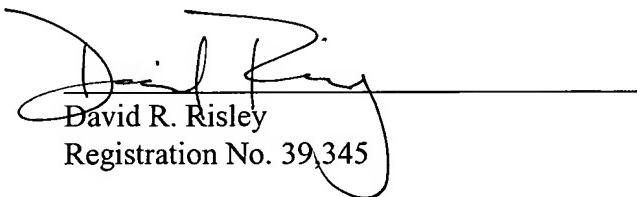
Applicant notes that because the Johnson reference was published *after* Applicant’s filing, the Johnson reference can only qualify as prior art as to Applicant’s claims under 35 U.S.C. § 102(e) (and *not* 35 U.S.C. § 102(a)). The Johnson reference, however, is not “by another” under 35 U.S.C. § 102(e) because the subject matter of the Johnson reference and Applicant’s claimed inventions were owned by the same legal entity (i.e., the Hewlett-Packard Company) or were subject to an obligation of assignment to that legal entity when the inventions were made. In such a case, the cited reference may not be used against the Applicant’s claims under 35 U.S.C. § 103. *See* 35 U.S.C. § 103(c) (“Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.”).

In view of the above, Applicant respectfully submits that the rejections in view of the Johnson reference are improper and requests that the rejections be withdrawn. Applicant further

submits that if a new rejection is to be issued against any of Applicant's claims, such a rejection should be contained in a non-final Office Action.

Applicant respectfully submits that Applicant's pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Assistant Commissioner for Patents, Alexandria, Virginia 22313-1450, on

7-13-06

Mary Meeser  
Signature